

No. PD-0287-20
In the Court of Criminal Appeals of Texas
At Austin

FILED
COURT OF CRIMINAL APPEALS
11/17/2020
DEANA WILLIAMSON, CLERK

—◆—
No. 14-17-00400-CR

In the Court of Appeals
For the Fourteenth District of Texas
At Houston

—◆—
No. 1096930
In the 184th District Court
Of Harris County, Texas

—◆—
Happy Tran Pham
Appellant

v.

The State of Texas
Appellee

—◆—
**State's Motion for Extension of Time
To File Brief on Discretionary Review**
—◆—

The State's brief on discretionary review is due on November 20, 2020. The State asks for a 30-day extension of time to file the petition. The main reason the State needs an extension is that the appellant's service was defective. While the appellant's counsel managed to serve 1) her motion for extension of time to file a PDR, 2) her PDR, and 3) her motion for extension of time to file her brief on prosecutors who

have, in some way, directly handled this case, the only person in the Harris County District Attorney's office she served with her brief was Kim Ogg, the elected District Attorney of Harris County. Ms. Ogg has never filed a document in this case under her own signature, and does not qualify as "lead counsel" under the Rules of Appellate Procedure. Ms. Ogg manages hundreds of employees with thousands of cases, and generally does not monitor deadlines in individual cases. Thus the prosecutor who will be handling this case on discretionary review did not learn the appellant's brief had been filed for more than three weeks.

In addition to that, the following facts are relevant:

1. The appellant was indicted for murder. (CR 21). The appellant pleaded not guilty but a jury found him guilty as charged. (4 RR 10-11; CR 269). The jury assessed punishment at confinement for life. (CR 281). The trial court certified the appellant's right of appeal, and the appellant filed a notice of appeal. (CR 289, 290). The First Court of Appeals affirmed the appellant's conviction, and this Court granted discretionary review. *Pham v. State*, 595 S.W.3d 769 (Tex. App.—Houston [14th Dist.] 2019, pet. granted).
2. This is the State's first request for extension.

3. The appellant's counsel filed her brief on October 20, but, due to her defective service the undersigned attorney learned of this only on November 13. Since October 20, the undersigned attorney has worked on several cases:

- a. *In re State ex rel. Ogg v. Aguilar*
Nos. 01-20-609-CR, 01-20-00612-CR, 01-20-00615-CR, 01-20-00643-CR *et seq.*
Petitioner's reply brief filed October 21, 2020
- b. Roberto Pacas
Nos. 01-18-01016-CR *et seq.*
Response to motion for en banc reconsideration as "ordered" by the court filed October 27, 2020
- c. *Ex parte* Joseph Gomez
Nos. PD-0724-20 and PD-0725-20
Reply to appellant's brief filed October 31, 2020
- d. Benson Dorsey
Nos. PD-0901-20 *et seq.*
Reply to PDR filed November 2, 2020
- e. Nathaniel Wiggins
No. 14-20-00076-CR
Brief filed November 6, 2020
- f. Vincent Stredic
No. PD-1035-20
PDR filed November 13, 2020

4. In addition, the undersigned attorney has other time-sensitive cases:

- a. Maurice Edwards
No. 01-19-00100-CR
PDR due November 30, 2020
- b. James Leleo
Nos. 01-20-00034-CR and 01-20-00035-CR
Brief due, with no further extensions, November 30, 2020
- c. Sandra Melgar
No. PD-0243-20
Brief due December 9, 2020

The State prays that this Court will grant the requested extension.

Respectfully submitted,

/s/ C.A. Morgan
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Date: November 13, 2020

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